

From: "Kimberly Carter" <kcarter@thebankofelkriver.com> on 04/19/2004 12:15:40 PM
Subject: Economic Growth and Regulatory Paperwork Reduction Act of 1996 Review

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Dear Federal Reserve:

As a community banker, I appreciate the regulators' effort on the critical problem of regulatory burden. Community bankers work hard to establish the trust and confidence with our customers that are fundamental to customer service, but consumer protection rules frequently interfere with our ability to serve our customers. The community banking industry is slowly being crushed under the cumulative weight of regulatory burden, something that must be addressed by Congress and the regulatory agencies before it is too late. This is especially true for consumer protection lending rules, which though well intentioned, unnecessarily increase costs for consumers and prevent banks from serving customers. While each individual requirement may not be burdensome itself, the cumulative impact of consumer lending rules, by driving up costs and slowing processing time for loans from legitimate lenders, helps create a fertile ground for predatory lenders. It is time to acknowledge that consumer protection regulations are not only a burden to banks but are also a problem for consumers.

Truth in Lending (Federal Reserve Regulation Z)

Right of Rescission. One burdensome requirement is the three-day right of rescission under Regulation Z. Rarely, if ever, does a consumer exercise the right. Consumers resent having to wait three additional days to receive loan proceeds after the loan is closed, and they often blame the bank for "withholding" their funds. Even though this is a statutory requirement, inflexibility in the regulation making it difficult to waive the right of rescission aggravates the problem. If not outright repealed, depository institutions should at least be given much greater latitude to allow customers to waive the right.

Finance Charges. Another problem under Regulation Z is the definition of the finance charge. Assessing what must be included in - or excluded from - the finance charge is not easily determined, especially fees and charges levied by third parties. Yet, the calculation of the finance charge is critical in properly calculating the annual percentage rate (APR). This process desperately needs simplification so that all consumers can understand the APR and bankers can easily calculate it.

Errors and Restitution. More latitude needs to be given examiners regarding errors inadvertently made in calculating the finance charge and APR. It is an expense to the Bank and reflects on the Bank's reputation to require restitution to the consumer in situations where the fee is itemized and disclosed, but inadvertently left out of the total finance charge. This type of error has no apparent harm or effect on the consumer as they were aware of the fee and it was disclosed to them. The average consumer does not care about the total finance charge or APR. Their

concern is whether they get the loan, what the interest rate is, and what the payment amount is. We (bankers) all know the APR is for comparison purposes, the consumers rarely, if ever, do.

Advertisement rules. It would be helpful if the regulators would equally enforce the Reg Z advertisement rules. Community banks that try to maintain strict compliance with the rules are at a disadvantage when mega-bank's advertisements are not compliant with Reg Z, especially when they are located in close proximity. It would be great if other lenders (such as car dealerships) also had some consequences for not complying with Reg Z advertisement rules.

Equal Credit Opportunity Act (Federal Reserve Regulation B)

Adverse Action Notices. The requirement to inform joint applicants of the reasons for denial put the Bank in a very difficult position with regards to customer confidentiality. Example: A father and son apply jointly for a car loan for the son. The father has poor credit and the loan is denied. The new interpretation states that we need to send an adverse action notice to the son stating the loan is denied due to his father's poor credit history. No longer is the statement that the co-applicant doesn't meet our credit standards compliant. This puts the Bank in the middle of a bad situation.

Home Mortgage Disclosure Act (HMDA) (Federal Reserve Regulation C)

Exemptions. The current exemption for banks with less than \$33 million in assets is far too low and should be increased to at least \$500 million. As a Bank on the fringe of an MSA; asset size under \$275 million; in a moderate income; extremely low minority area; we find the collection especially burdensome as there appears to be no significant value to the information.

Volume of Data. The volume of the data that must be collected and reported is clearly burdensome. At a time when regulators are reviewing regulatory burden, the burden associated with HMDA data collection has recently increased substantially. Consumer activists are constantly clamoring for additional data and the recent changes to the requirements acceded to their demands without a clear cost-benefit analysis. All consumers ultimately pay for the data collection and reporting in higher costs, and regulators should recognize that.

Rate Spread. The requirement to report rate spread should include a category for manufactured homes. The spread calculation to report a first or second mortgage secured by a manufactured or mobile home, should not be the same as a first mortgage secured by real property. Manufactured homes typically have similar rates as autos when real property is not securing the loan, therefore we are not comparing like products.

Flood Insurance

The current flood insurance regulations create difficulties with customers, who often do not understand why flood insurance is required and that the federal government - not the bank - imposes the requirement. The government needs to do a better job of educating consumers to the reasons and requirements of flood hazard insurance. Flood insurance requirements should be streamlined and simplified to be understandable.

Additional Comments

It would be much easier for banks, especially community banks that have limited resources, to comply with regulatory requirements if requirements were based on products and all rules that apply to a specific product were consolidated in one place. Second, regulators require banks to provide customers with understandable disclosures and yet do not hold themselves to the same standard in drafting regulations that can be easily understood by bankers. Finally, examiner training needs to be improved to ensure that regulatory requirements are properly - and uniformly - applied.

Conclusion

The volume of regulatory requirements facing the banking industry today presents a daunting task for any institution, but severely saps the resources of community banks. Community bankers are in close proximity to their customers, understand the special circumstances of the local community and provide a more responsive level of service than mega-banks. However, community banks cannot continue to compete effectively and serve their customers and communities without some relief from the crushing burden of regulation. Thank you for the opportunity to comment on this critical issue.

Sincerely,

Kimberly Carter, AVP/Compliance Officer